
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 78

LEGAL AID AND ADVICE

**The Legal Aid and Advice and Assistance (Scotland)
(Miscellaneous Amendments) Regulations 2019**

<i>Made</i>	- - - -	<i>27th February 2019</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>1st March 2019</i>
<i>Coming into force</i>	- -	<i>26th April 2019</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 33(2), (3) and (3A), of the Legal Aid (Scotland) Act 1986(1) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Legal Aid and Advice and Assistance (Scotland) (Miscellaneous Amendments) Regulations 2019 and come into force on 26 April 2019.

Application

2.—(1) Regulations 3, 4, 5, 6(2), (3) and (5) apply only in relation to fees for work done or outlays incurred on or after 26 April 2019.

(2) For the purposes of paragraph 1, where work for a fee prescribed in schedules 1 to 11 is conducted over more than one date, the work is deemed to have been done on the day on which the work comes to an end.

(3) Regulations 6(4) and 7 apply only in relation to a case where the criminal legal assistance concerned is granted or made available on or after 26 April 2019.

Amendment of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

3.—(1) The Civil Legal Aid (Scotland) (Fees) Regulations 1989(2) are amended as follows.

(1) 1986 c.47. Section 33(2) was amended by the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), section 67(7) (b). Section 33(3A) was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 51. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53.

(2) S.I. 1989/1490, relevant amending instruments are S.I. 1990/473, S.I. 1991/565, S.I. 1992/372, S.I. 1994/1015, S.I. 1995/1044, S.I. 1997/689, S.S.I. 2003/178, S.S.I. 2007/14, S.S.I. 2009/203, S.S.I. 2011/41, S.S.I. 2011/160, S.S.I. 2013/144, S.S.I. 2013/250, S.S.I. 2014/257, S.S.I. 2015/337, S.S.I. 2015/380, S.S.I. 2016/257, S.S.I. 2016/290 and S.S.I. 2017/310.

(2) In regulation 5 (fees allowable to solicitors) in paragraph (2A) for “£21.00”(3) substitute “£21.63”.

(3) In part I of chapter III of schedule 2 (undefended actions), for the first table of fees substitute the table of fees in schedule 1 of these Regulations.

(4) In part II of chapter III of schedule 2 (defended actions), for the table of fees substitute the table of fees in schedule 2 of these Regulations.

(5) In chapter IV of schedule 2 (executory business), for the table of fees substitute the table of fees in schedule 3 of these Regulations.

(6) In schedule 2A (fees allowable to solicitors for simple procedure cases and First-Tier Tribunal for Scotland cases)(4), substitute the table of fees in schedule 4 of these Regulations.

(7) In schedule 3 (table of detailed fees chargeable by solicitors for proceedings in the Court of Session and the sheriff court), substitute the table of fees in schedule 5 of these Regulations.

(8) In schedule 4 (fees of counsel for proceedings in the Court of Session, Sheriff Appeal Court, sheriff court, First-Tier Tribunal for Scotland and Upper Tribunal for Scotland)(5), for the table of fees substitute the table of fees in schedule 6 of these Regulations.

(9) In schedule 5 (table of detailed fees chargeable by solicitors for proceedings in the Court of Session, Sheriff Appeal Court, and Upper Tribunal for Scotland, proceedings listed at regulation 5(3) and proceedings in the sheriff court listed in schedule 7)(6), for the table of fees substitute the table of fees in schedule 7 of these Regulations.

(10) In schedule 6 (table of fees chargeable by solicitors for proceedings in the sheriff court (except summary cause and executory proceedings and the proceedings listed in schedule 7) and in the Sheriff Appeal Court)—

(a) in chapter I (sheriff court civil fees (undefended)) in the Notes on the operation of chapter I in paragraph 6 for “£7.27”(7) substitute “£7.49”,

(b) in chapter II (sheriff court civil fees (defended)) in the Notes on the operation of chapter II in paragraph 21 for “£7.27”(8) substitute “£7.49”.

Amendment of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989

4.—(1) The Criminal Legal Aid (Scotland) (Fees) Regulations 1989(9) are amended as follows.

(2) In regulation 5(1) (fees allowances to solicitors: identification parades and judicial examinations)(10)—

(a) in sub-paragraph (a)(i) for “£114.00” substitute “£117.42”,

(b) in sub-paragraph (a)(ii) for “£12.67” substitute “£13.06”,

(c) in sub-paragraph (b)(i) for “£93.80” substitute “£96.62”,

(d) in sub-paragraph (b)(ii) for “£11.82” substitute “£12.18”.

(3) In regulation 6 (duty solicitors’ fees)(11)—

(a) for “£63” in each place where it appears substitute “£64.89”,

(3) Paragraph (2A) was inserted by [S.S.I. 2003/178](#) and this figure was substituted by [S.S.I. 2009/203](#).

(4) Schedule 2A was inserted by [S.S.I. 2016/290](#) and amended by [S.S.I. 2017/310](#).

(5) Schedule 4 was inserted and renamed by [S.S.I. 2011/160](#) and renamed by [S.S.I. 2016/257](#).

(6) Schedule 5 was inserted by [S.S.I. 2003/178](#) and renamed by [S.S.I. 2016/257](#).

(7) This figure was substituted by [S.S.I. 2011/41](#).

(8) Paragraph 21 was inserted by [S.S.I. 2003/178](#) and this figure was substituted by [S.S.I. 2011/41](#).

(9) [S.I. 1989/1491](#) relevantly amended by [S.I. 1991/566](#), [S.I. 1992/374](#), [S.S.I. 2004/264](#), [S.S.I. 2005/113](#), [S.S.I. 2005/584](#), [S.S.I. 2005/656](#), [S.S.I. 2007/180](#), [S.S.I. 2008/240](#), [S.S.I. 2009/312](#), [S.S.I. 2010/63](#), [S.S.I. 2010/212](#), [S.S.I. 2011/41](#), [S.S.I. 2011/135](#), [S.S.I. 2012/276](#), [S.I. 2013/7](#), [S.S.I. 2013/250](#), [S.S.I. 2013/320](#), [S.S.I. 2015/337](#) and [S.S.I. 2017/466](#).

(10) Regulation 5 was substituted by [S.S.I. 2010/212](#).

(11) The figures in regulation 6 were substituted by [S.S.I. 2008/240](#).

- (b) for “£9” in each place where it appears substitute “£9.27”,
- (c) for “£70” in each place where it appears substitute “£72.10”.

(4) In schedule 1 (fees of solicitors) in the Notes on the operation of schedule 1 in paragraph 7(1) for “£12.67” substitute “£13.06”.

(5) In part 1 (detailed fees) and part 2 (inclusive fees for solemn first instance proceedings) of schedule 1 (fees of solicitors) for the table of fees substitute the tables of fees in schedule 8 of these Regulations.

(6) In schedule 2 (fees of counsel) for the table of fees substitute the table of fees in schedule 9 of these Regulations.

(7) In schedule 3 (fees of counsel for proceedings in the supreme court) for the table of fees substitute the table of fees in schedule 10 of these Regulations.

Amendment of the Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992

5.—(1) The Legal Aid in Contempt of Court Proceedings (Scotland) (Fees) Regulations 1992(12) are amended as follows.

(2) In schedule 1 (table of fees allowable to solicitors for legal aid made available under section 30 of the Act in connection with proceedings for contempt of court)—

- (a) in paragraph 1(a) for “£27.40” substitute “£28.23”,
- (b) in paragraph 1(b) for “13.70” substitute “£14.12”,
- (c) in paragraph 2(a) for “£10.55” substitute “£10.87”,
- (d) in paragraph 2(b) for “£5.25” substitute “£5.41”,
- (e) in paragraph 3 for “£6.00” substitute “£6.18”,
- (f) in paragraph 4 for “£2.40” substitute “£2.48”,
- (g) in paragraph 4A(a)(13) for “£5.28” substitute “£5.44”,
- (h) in paragraph 4A(b) for “£2.63” substitute “£2.71”.

(3) In schedule 2 (fees of counsel) for the table of fees substitute the table of fees in schedule 11 of these Regulations.

Amendment of the Advice and Assistance (Scotland) Regulations 1996

6.—(1) Schedule 3 (table of fees allowable to solicitors) of the Advice and Assistance (Scotland) Regulations 1996(14) is amended as follows.

(2) In part I (table of fees allowable to solicitors for assistance by way of representation)—

- (a) in paragraph 1, for the table of fees substitute the table of fees in schedule 12 of these Regulations,
- (b) in paragraph 3(a) (petition by debtor for sequestration) for “£33.15” substitute “£34.15”,
- (c) in paragraph 3(b) (petition by debtor for sequestration) for “£54.45” substitute “£56.09”.

(3) In part II (table of fees allowed to solicitors for advice and assistance other than assistance by way of representation) for the table of fees substitute the table of fees in schedule 13 of these Regulations.

(12) S.I. 1992/1228 relevantly amended by S.I. 1997/718, S.S.I. 2011/41, S.S.I. 2013/250 and S.S.I. 2014/257.

(13) Paragraph 4A was inserted by S.S.I. 2011/41.

(14) S.I. 1996/2447 relevantly amended by S.I. 1997/726, S.S.I. 2004/262, S.S.I. 2005/171, S.S.I. 2006/233, S.S.I. 2008/240, S.S.I. 2010/312, S.S.I. 2011/41, S.S.I. 2013/144, S.S.I. 2013/250, S.S.I. 2014/257, and S.S.I. 2017/466.

(4) In part III (table of fees allowed to solicitors for assistance by way of representation for proceedings under sections 19, 30 and 36(1)(a) of the Criminal Justice (Scotland) Act 2016) for the table of fees substitute the table of fees in schedule 14 of these Regulations.

(5) In part IV (table of fees allowed to solicitors for advice and assistance in relation to sections 32 and 44 of the Criminal Justice (Scotland) Act 2016)—

- (a) in paragraph 3 (standard rate) for “£75.00” substitute “£77.25”,
- (b) in paragraph 3 (higher rate) for “£99.75” substitute “£102.75”,
- (c) in paragraph 4(a) (standard rate) for “£115.00” substitute “£118.45”,
- (d) in paragraph 4(a) (higher rate) for “£152.95” substitute “£157.54”,
- (e) in paragraph 4(b)(i) (standard rate) for “£200.00” substitute “£206.00”,
- (f) in paragraph 4(b)(i) (higher rate) for “£266.00” substitute “£273.98”,
- (g) in paragraph 4(b)(ii) (standard rate) for “£50.00” substitute “£51.50”,
- (h) in paragraph 4(b)(ii) (higher rate) for “£66.50” substitute “£68.50”,
- (i) in paragraph 5 (standard rate) for “£30.00” substitute “£30.90”,
- (j) in paragraph 5 (higher rate) for “£39.90” substitute “£41.10”,
- (k) in paragraph 6 for “£11.60” in each place where it appears substitute “£11.95”,
- (l) in paragraph 6 for “£15.43” in each place where it appears substitute “£15.90”.

Amendment of the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999

7.—(1) The Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999⁽¹⁵⁾ are amended as follows.

(2) In regulation 4 (fixed payments allowable to solicitors) in paragraphs (6) and (6ZA)⁽¹⁶⁾ for “£100” substitute “£103”.

(3) In schedule 1 for the table of fees substitute the tables of fees in schedule 15 of these Regulations.

(4) In schedule 1A for the table of fees substitute the table of fees in schedule 16 of these Regulations.

(5) In schedule 1B for the table of fees substitute the table of fees in schedule 17 of these Regulations.

St Andrew’s House, Edinburgh
27th February 2019

ASH DENHAM
Authorised to sign by the Scottish Ministers

⁽¹⁵⁾ S.I. 1999/491 relevantly amended by S.S.I. 2001/307, S.S.I. 2002/247, S.S.I. 2003/249, S.S.I. 2004/51, S.S.I. 2004/126, S.S.I. 2004/263, S.S.I. 2005/93, S.S.I. 2006/234, S.S.I. 2008/240, S.S.I. 2010/237, S.S.I. 2011/162, S.S.I. 2014/366, S.S.I. 2015/337 and S.S.I. 2017/466.

⁽¹⁶⁾ Paragraph 6ZA was inserted by S.S.I. 2011/162.

SCHEDULE 1

Regulation 3(3)

Amendments to part I of chapter III of schedule 2 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

Part I - Undefended Actions		
1.	The fee for citation, service or re-service after the first citation—	
	(a)	to any destination by post
	(b)	by advertisement
2.	The fee for attendance at court	
3.	The fee for all other work	
		£6.95
		£19.59
		£19.59
		£55.11

SCHEDULE 2

Regulation 3(4)

Amendments to part II of chapter III of schedule 2 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989

Part II - Defended Actions		
1.	The instruction fee—	
	(a)	for the pursuer's solicitor, including taking instructions, framing summons and statement of claim, obtaining warrant for service, enquiring for the form of response and noting defence
	(b)	for the defender's solicitor, for all work from taking instructions (including instructions for a counter-claim) up to and including lodging the form of response
2.	Where an additional defender or third party enters the cause, an additional fee for each of the original parties' solicitors for all consequent work	
3.	The fee for citation, service or re-service, except as provided for in paragraph 19(e), by—	
	(a)	post, to a destination—
		(i) within the United Kingdom, Isle of Man, Channel Islands or the Republic of Ireland
		(ii) other than one specified in paragraph (i)
	(b)	sheriff officer, to include instructing sheriff officer, perusing execution of citation and settling sheriff officer's fee
	(c)	advertisement, to include framing and instructing the advertisement
4.	In connection with the first hearing of the cause—	
	(a)	the fee for attendance at court, including noting the outcome of the hearing
	(b)	if waiting for and conducting the hearing exceeds an hour and a half, the fee for attendance at court for each subsequent half hour
		£83.60
		£83.60
		£41.83
		£6.95
		£14.86
		£6.95
		£21.75
		£72.28
		£21.75